EXHIBIT 3
FILED UNDER SEAL

Lindsay Cooper

From:	Matthew R. Berry <mberry@SusmanGodfrey.com>
Sent:	Friday, November 10, 2017 1:38 PM
To:	Lindsay Cooper; UberWaymoMoFoAttorneys; Uber-sg@LISTS.SUSMANGODFREY.COM; Boies Service (BSF_EXTERNAL_UberWaymoLit@bsfllp.com)
Cc:	QE-Waymo; John Cooper; Matthew Cate
Subject:	RE: Waymo v. Uber - Bratic Testimony

No.   He is a "may call" witness now.   We reserve the right to call him depending on how Waymo's evidence of damages come in. To the extent we do call him, he obviously would not present argument of counsel or perform basic arithmetic.   The fact that he is a "rebuttal" witness relates only to the issue that you have the burden of proof on damages, so he is to rebut your burden of proof.   We have a right to a damages witness regardless of whether you have one.

That being said, why is Mr. Wagner still on your witness list?   He has been excluded, but Mr. Bratic has not.

Matt

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From: owner-uber-sg@lists.susmangodfrey.com [mailto:owner-uber-sg@lists.susmangodfrey.com] **On Behalf Of** Lindsay Cooper
Sent: Thursday, November 09, 2017 1:20 PM
To: UberWaymoMoFoAttorneys; Uber-sg@LISTS.SUSMANGODFREY.COM; Boies Service (BSF_EXTERNAL_UberWaymoLit@bsfllp.com)
Cc: QE-Waymo; John Cooper; Matthew Cate
Subject: Waymo v. Uber - Bratic Testimony

Counsel,

In light of Judge Alsup's order excluding the testimony of Michael Wagner and the fact that Defendants offered Walter Bratic only as a rebuttal expert, will Uber agree not to call Mr. Bratic at trial?

Please let us know. If Uber does not agree, we are planning to file a motion to exclude his testimony pursuant to Judge Alsup's order.

Thank you,
Lindsay

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